

**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

ENVIRONMENT AND CONSERVATION
OFFICE OF GENERAL COUNSEL

AUG 29 2007

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IN THE MATTER OF:

**DIVISION OF WATER
POLLUTION CONTROL**

JOHN TRICE

RESPONDENT

CASE NO. WPC-07-0161

**RESPONDENT'S WRITTEN PETITION CONTESTING DIRECTOR'S ORDER AND
ASSESSMENT**

Comes now Respondent John Trice ("Respondent") and submits this written petition contesting the Order and Assessment issued by Director Paul E. Davis on July 30, 2007 and requesting a hearing before the Water Quality Control Board. In support of this written petition, Respondent states as follows:

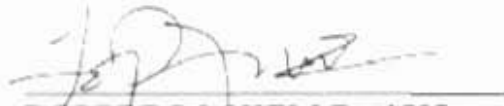
1. On or around August 1, 2007, Respondent received Director's Order and Assessment No. WPC07-0161 ("Director's Order"). The Director's Order requires Respondent, in essence, to do the following:

- a. Submit a compensatory mitigation plan within thirty days of receipt of the Director's Order;
- b. Complete all activities outlined in an approved compensatory mitigation plan by December 31, 2007; and
- c. Pay a civil penalty of \$11,000.00 within thirty days of receipt of the Director's Order.

2. Respondent contests the requirement that he submit a compensatory mitigation plan within thirty days of receipt of the Director's Order and requests an extension of time to submit such plan. Respondent has engaged an environmental consulting firm to assist in locating a suitable area for the creation and/or preservation of wetlands for the purpose of implementing a compensatory mitigation plan yet Respondent has not finalized a location. Until a location is chosen, Respondent cannot complete such a compensatory mitigation plan and submit it for Division approval.
3. Respondent contests the requirement that he complete all activities outlined in an approved compensatory mitigation plan by December 31, 2007 and requests an extension of time to complete the activities outlined in such plan. Again, Respondent has not finalized a location for implementing a compensatory mitigation plan. Until a location is chosen, a compensatory mitigation plan cannot be completed and submitted to the Division for approval, nor can the activities outlined in an approved plan be completed.
4. Respondent contests the requirement that he pay a civil penalty of \$11,000.00 and requests that the penalty be waived or, alternatively, reduced. Since being notified of potential violations by the Division of Water Pollution Control, Respondent has engaged an environmental consultant and made good faith efforts, with the assistance of the Division, to locate and obtain approval of a suitable location for implementing a compensatory mitigation plan. In addition to the expenses already incurred by Respondent in finding a location and preparing a wetland delineation and mitigation proposal, Respondent will incur substantially greater costs in the future to secure the location property, complete a compensatory mitigation plan, and complete the activities outlined in such a plan once obtaining Division approval.

WHEREFORE, Respondent contests the Director's Order as set forth above and requests a hearing before the Water Quality Control Board at a time to be scheduled at a later date.

Respectfully submitted,



ROBERT ROCHELLE, #2787
T. PRICE THOMPSON III, #21029
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Lebanon, TN 37087
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Attorney for Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing document has been served via U.S. Mail, postage prepaid, on:

Vojin Janjic
Manager, Enforcement and Compliance Section
Department of Environment and Conservation
Division of Water Pollution Control
401 Church Street
L&C Annex, 6th Floor
Nashville, TN 37243-1534; and

Devin Wells, Esq.
Office of General Counsel
Department of Environment and Conservation
401 Church Street
L&C Tower 20th Floor
Nashville, TN 37243

on this the 27th day of August, 2007


T. PRICE THOMPSON III